

In the Matter of the Compensation of
HELIO BEDOLLA-HUERTA, Claimant
WCB Case No. 22-04454, 22-03340
ORDER ON REVIEW (REMANDING)
Dodge and Associates, Claimant Attorneys
SAIF Legal Salem, Defense Attorneys

Reviewing Panel: Members Curey and Ousey.

Claimant¹ requests review of Administrative Law Judge (ALJ) Marshall's order approving a Disputed Claim Settlement (DCS). On review, the issue is the propriety of the DCS. We remand.

We have discretionary authority to remand when, in our judgment, we find the record to be improperly, incompletely, or otherwise insufficiently developed. ORS 656.295(5).

Here, the ALJ approved the parties' DCS on January 19, 2023. Within 30 days of the ALJ's approval order, claimant requested Board review of that order. Notwithstanding claimant's request, no record exists on which to determine the circumstances surrounding the execution of the parties' settlement. Thus, the record is insufficiently developed to resolve the issue arising from claimant's request for review, which concerns his objections to the ALJ's approval of the DCS.

Under such circumstances, we conclude that remand is warranted. *See Kimberly Coven*, 66 Van Natta 171 (2014) (remanding an appealed order approving a DCS to the ALJ to develop a record from which to determine the circumstances surrounding execution of the parties' settlement); *Deborah Kolb-Witt*, 62 Van Natta 2107 (2010).

¹ Although he was represented at the hearing level, it is not clear if claimant is represented at this time. Insofar as he is unrepresented, he may wish to consult the Ombuds Office for Oregon Workers, whose job it is to assist injured workers in such matters. He may contact the Ombuds Office, free of charge, at 1-800-927-1271, or write to:

OMBUDS OFFICE FOR OREGON WORKERS
DEPT OF CONSUMER & BUSINESS SERVICES
PO BOX 14480
SALEM OR 97309-0405

Additionally, a copy of this order, along with a copy of claimant's request for Board review and its translation, have been provided to claimant's attorney at the hearing level.

Accordingly, this matter is remanded to ALJ Marshall with instructions to conduct further proceedings to develop this record.² Those proceedings shall be conducted in any manner that achieves substantial justice. After closing the record and considering the parties' submissions and arguments, the ALJ shall issue a final, appealable order.

IT IS SO ORDERED.

Entered at Salem, Oregon on May 3, 2023

² In remanding this case to the ALJ, we are not vacating the DCS. We are, instead, allowing the ALJ to develop a record and rule on the validity of the DCS. *See Dorothy J. Carnes*, 57 Van Natta 2003, 2005 (2005) (a DCS will be set aside for a showing of extraordinary circumstances); *Floyd D. Gatchell*, 48 Van Natta 467 (1996) (to rescind a DCS, the claimant must establish extraordinary circumstances justifying that action).

We further note that a Claim Disposition Agreement involving this claim was also approved on January 19, 2023 (WCB Case No. 23-00032C). If claimant wishes to dispute the validity of the CDA, he may raise that issue to the ALJ on remand. *See Carnes*, 57 Van Natta at 2005.